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17 *Counsel for Defendant Google LLC*

18 **UNITED STATES DISTRICT COURT**

19 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

20  
21 CHASOM BROWN, WILLIAM BYATT,  
22 JEREMY DAVIS, CHRISTOPHER  
23 CASTILLO, and MONIQUE TRUJILLO,  
individually and on behalf of all similarly  
situated,

Case No. 4:20-cv-03664-YGR-SVK

**GOOGLE LLC’S RESPONSE TO  
PLAINTIFFS’ ADMINISTRATIVE  
MOTION REGARDING COURT’S MAY  
20, 2022 ORDER (DKT. 615)**

24 Plaintiffs,

Referral: Hon. Susan van Keulen, USMJ

25 v.

26 GOOGLE LLC,

27 Defendant.

1       **I. INTRODUCTION**

2       Pursuant to Local Rule 7-11, Google, LLC (“Google”) hereby responds to Plaintiffs’  
 3 Administrative Motion Regarding Court’s May 20, 2022 Order (Dkt. 615) (“Motion” or “Mot.”).

4       **II. RESPONSE**

5       To the extent the Court entertains Plaintiffs’ request for additional briefing, Google requests  
 6 a modification to Plaintiffs’ proposed schedule. Specifically, that the Court (i) set the briefing  
 7 schedule to begin August 4, after Google has filed its opposition to Plaintiffs’ class certification  
 8 motion and (ii) allow Google two weeks to oppose any supplemental motion for sanctions. Google’s  
 9 proposed schedule would ensure that Google can respond adequately to Plaintiffs’ supplemental  
 10 motion, which Plaintiffs represent will seek serious sanctions. *See Mot. 2.* Plaintiffs refused to  
 11 negotiate a reasonable briefing schedule and presented their proposed schedule to Google for the  
 12 first time on the day they filed the instant Motion. The objective of Plaintiffs’ proposed schedule  
 13 appears to be to encumber Google at a critical juncture in the case.

14       Plaintiffs have already had two weeks to prepare their sanctions motion, and now propose  
 15 to file it on Friday, July 1—the day before the July 4 holiday weekend—and give Google only ***four***  
 16 ***business days*** to respond. *Id.* (They further propose that their reply to Google’s opposition should  
 17 be due a full week later, with no intervening holidays. *Id.*) This proposed schedule, already  
 18 unbalanced in Plaintiffs’ favor, is all the more inequitable because they intend to seek multiple  
 19 highly prejudicial sanctions “including preclusion and issue sanctions, jury instructions, and  
 20 monetary sanctions.” *Id.* Google deserves sufficient time to respond when such severe penalties are  
 21 on the line.

22       Moreover, as Plaintiffs are acutely aware, Google is currently preparing its opposition to  
 23 Plaintiffs’ motion for class certification (due August 4, 2022) and simultaneously preparing to  
 24 depose Plaintiffs’ six experts, whose nine reports and supporting materials collectively comprise  
 25 over 2,500 pages. At the same time, Google is preparing its opposition to the *Calhoun* Plaintiffs’  
 26 pending sanctions motion and for the associated hearing scheduled for August 11, 2022.

27       The Parties have been working around the clock to litigate these related matters, and, as  
 28 Google explained to Plaintiffs when they notified Google of their intent to file their motion, several

1 of Google's counsel have planned brief vacations with their families during the period Plaintiffs  
 2 propose to brief this matter. Google does not seek any undue delay in the consideration of these  
 3 issues, and proposes only to postpone briefing until its opposition to class certification is complete.  
 4 If Plaintiffs believe Google's proposed schedule would interfere with their reply in support of class  
 5 certification, Google is willing to consider a mutually acceptable alternative.

6 Plaintiffs have no compelling justification for forcing Google to brief this motion on such  
 7 an urgent, inequitable timeline.<sup>1</sup> Their argument that Google's request to delay briefing by one  
 8 month constitutes "obstruction to delay any imposition of additional sanctions," *id.* at 3, is  
 9 meritless—particularly because the principal relief they intend to seek (evidentiary preclusion and  
 10 a jury instruction) will not become relevant until summary judgment and trial, respectively. Unable  
 11 to articulate a reason that these issues must be briefed *next week*, Plaintiffs instead insist that  
 12 "Google should not be permitted to complain about timing when the timeframe is entirely  
 13 attributable to Google's misconduct." *Id.* In sum and substance, then, Plaintiffs contend that having  
 14 to oppose their motion on an unfavorable timeline is itself a sanction Google should bear, even  
 15 *before* the Court determines whether there has been any misconduct. (As Google will demonstrate  
 16 in its opposition, there has been none.) No such urgency is warranted here, and Google should not  
 17 be forced to respond on the schedule Plaintiffs unilaterally proposed to advantage themselves.

18 **III. CONCLUSION**

19 For the foregoing reasons, Google consents to Plaintiffs' request for limited additional  
 20 briefing, and respectfully requests that the Court set the following schedule for that briefing:

<u>Pleading</u>	<u>Page Limit</u>	<u>Due Date</u>
Plaintiffs' Motion and Memorandum	8	August 4, 2022
Google's Opposition	8	August 18, 2022
Plaintiffs' Reply	5	August 25, 2022

26  
 27 <sup>1</sup> For example, Plaintiffs seek no additional discovery in connection with the ongoing class  
 28 certification briefing. Indeed, Plaintiffs filed their class certification motion, Dkt. 609, *after*  
 receiving the Sramek Declaration on June 14, Dkt. 615-3, without any indication that class  
 certification briefing depended on the resolution of an as-yet-undisclosed motion for sanctions.

1 DATED: June 28, 2022

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